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2 **WEISBERG & MEYERS, LLC**
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4 **Phoenix, AZ 85012**
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8 **Attorney for Plaintiff**

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 Juan Munoz,) Case No.
12)
13 Plaintiff,) **COMPLAINT AND TRIAL BY JURY**
14) **DEMAND**
15 vs.)
16)
17 The Jakoby Law Firm, P.C. d/b/a Lukehart)
18 & Associates, P.C.,)
19)
20)
21 Defendant.)
22 _____

23 **NATURE OF ACTION**

24 1. This is an action brought under the Fair Debt Collection Practices Act
25 (“FDCPA”), 15 U.S.C. § 1692 *et seq.*

26 **JURISDICTION AND VENUE**

27 2. This Court has jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. §
28 1331.

3. Venue is proper before this Court pursuant to 28 U.S.C. §1391(b), where
the acts and transactions giving rise to Plaintiff’s action occurred in this district, (where
Plaintiff resides in this district), and/or where Defendant transacts business in this district.

PARTIES

4. Plaintiff, Juan Munoz (“Plaintiff”), is a natural person who at all relevant times resided in the State of Arizona, County of Maricopa, and City of Phoenix.

5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

6. Defendant, The Jakoby Law Firm, P.C. d/b/a Lukehart & Associates, P.C. (“Defendant”) is an entity who at all relevant times was engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C. §1692a(5).

7. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

8. Plaintiff is a natural person obligated, or allegedly obligated, to pay a debt owed or due, or asserted to be owed or due a creditor other than Defendant.

9. Plaintiff's obligation, or alleged obligation, owed or due, or asserted to be owed or due a creditor other than Defendant, arises from a transaction in which the money, property, insurance, or services that are the subject of the transaction were incurred primarily for personal, family, or household purposes. Plaintiff incurred the obligation, or alleged obligation, owed or due, or asserted to be owed or due a creditor other than Defendant.

10. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or regularly

1 collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be
2 owed or due another

3
4 11. In connection with collection of an alleged debt in default, Defendant called
5 Plaintiff's cellular telephone on August 12, 2011, and at such time, demanded Plaintiff
6 pay an alleged debt of \$919.12.

7
8 12. In response, Plaintiff stated that he believed he might owe \$250.00 and that
9 he disputed any balance in excess of such amount. Further, Plaintiff stated that he was
10 willing to settle the alleged debt for \$250.00 made in separate payments.

11
12 13. Defendant, via its agent and/or employee "Marcus Ortiz," told Plaintiff that
13 Defendant did not care what Plaintiff felt he owed.

14
15 14. Defendant next claimed to have proof that Plaintiff owed \$919.12 and
16 stated that a judge would order Plaintiff to pay the balance in full if Defendant took the
17 bill in front a judge.

18
19 15. Defendant then condescendingly asked if Plaintiff ever watched "Judge
20 Judy" and stated that Defendant had to send Plaintiff's file to the attorney.

21
22 16. Defendant also stated that Plaintiff broke the law by not paying the full
23 \$919.12 alleged by Defendant.

24
25 17. Plaintiff told Defendant he was willing to settle the alleged debt for
26 \$250.00, otherwise Plaintiff would wait until the statute of limitations to collect the debt
27 expired. In response, Defendant told Plaintiff that there was no statute of limitations on
28 Plaintiff's debt.

1 18. Eventually, Plaintiff asked to speak to Mr. Ortiz's supervisor. Plaintiff was
2 transferred to Defendant's agent and/or employee "Dale Quintana," who immediately
3 demanded that Plaintiff pay the balance in full.
4

5 19. After said conversation ended, Plaintiff experienced a migraine headache,
6 his blood pressure rose, and he asked his supervisor to leave work as Plaintiff's
7 conversation with Mr. Ortiz and Mr. Quintana brought Plaintiff to tears and made him
8 feel like a dead beat.
9

10 20. Later that day, Plaintiff called and spoke to Mr. Ortiz, and at such time,
11 asked for Defendant's website to make sure Defendant was a legitimate company.
12

13 21. Defendant provided Plaintiff the website for the Colorado Supreme Court,
14 which instilled a sense of fear in Plaintiff.
15

16 22. Defendant then sent Plaintiff initial written communication dated August
17 15, 2011 on attorney letterhead.

18 23. The attorney letterhead would lead a Least Sophisticated Consumer to
19 believe that the letter is indeed from an attorney licensed to practice in his jurisdiction.
20

21 24. Upon information and good-faith belief, Defendant does not employ any
22 attorneys licensed to practice law in Arizona, as no attorney belonging to Defendant's
23 firm is listed in the membership directory of the State Bar of Arizona.
24

25 25. Further, Defendant's August 15, 2011 letter failed to state that Defendant is
26 not licensed to practice law in the state of Arizona.

27 26. As such, Defendant's letter was designed to mislead Plaintiff to believe that
28 Defendant had the ability to file suit against Plaintiff, a means to coerce Plaintiff to make

1 payment to Defendant for fear of such impending suit, where Defendant did not possess
2 such ability.

3
4 27. As a result of Defendant's harassing and abusive efforts to collect the
5 outstanding debt alleged due, Plaintiff suffered a migraine headache, elevated blood
6 pressure, personal humiliation, embarrassment, mental anguish, and emotional distress.

7
8 28. Defendant's actions constitute conduct highly offensive to a reasonable
9 person.

10 **COUNT I**

11 29. Plaintiff repeats and re-alleges each and every allegation contained above.

12
13 30. Defendant violated 15 U.S.C § 1692e(1) by telling Plaintiff to google
14 "Colorado Supreme Court," and as such, Defendant falsely representing to Plaintiff that
15 Defendant is vouched for, bonded by, or affiliated with the United States or any State.

16
17 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 18 a) Adjudging that Defendant violated the FDCPA;
- 19 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k, in the
20 amount of \$1,000.00;
- 21 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
- 22 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this
23 action;
- 24 e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be
25 allowed under the law;
- 26
27
28

1 f) Awarding such other and further relief as the Court may deem just and
2 proper.
3

4 **COUNT II**

5 31. Plaintiff repeats and re-alleges each and every allegation contained above.

6 32. Defendant violated 15 U.S.C. § 1692e(7) by falsely representing or
7
8 implying that Plaintiff had committed a crime or other conduct, in order to disgrace
9 Plaintiff.

10 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 11 a) Adjudging that Defendant violated the FDCPA;
12
13 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k, in the
14 amount of \$1,000.00;
15
16 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
17
18 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this
19 action;
20
21 e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be
22 allowed under the law;
23
24 f) Awarding such other and further relief as the Court may deem just and
25 proper.

26 **COUNT III**

27 33. Plaintiff repeats and re-alleges each and every allegation contained above.

28 34. Defendant violated 15 U.S.C. § 1692e(10) by using false representations
and deceptive practices in connection with collection of an alleged debt from Plaintiff.

1 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 2 a) Adjudging that Defendant violated the FDCPA;
- 3
- 4 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k, in the
- 5 amount of \$1,000.00;
- 6
- 7 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
- 8
- 9 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this
- 10 action;
- 11
- 12 e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be
- 13 allowed under the law;
- 14
- 15 f) Awarding such other and further relief as the Court may deem just and
- 16 proper.

17 **COUNT IV**

18 35. Plaintiff repeats and re-alleges each and every allegation contained above.

19 36. Defendant violated 15 U.S.C. § 1692g(b) by overshadowing the disclosures

20 required by 15 U.S.C. § 1692g(a) during the thirty-day dispute period, including

21 threatening to take immediate action against Plaintiff and disclaiming the validity of the

22 disclosures in the same conversation.

23 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 24 a) Adjudging that Defendant violated the FDCPA;
- 25
- 26 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k, in the
- 27 amount of \$1,000.00;
- 28
- c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;

- 1 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this
2 action;
3
4 e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be
5 allowed under the law;
6
7 f) Awarding such other and further relief as the Court may deem just and
8 proper.

9 **TRIAL BY JURY**

10 Plaintiff is entitled to and hereby demands a trial by jury.

11
12 Respectfully submitted this 9th day of November, 2011

13 By: s/ Marshall Meyers
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